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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/416,735	10/13/1999	ISABELLA A. ATENCIO	CJ-0897Q	6563

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RICHARD B MURPHY
CANJI INC
3525 JOHN HOPKINS COURT
SAN DIEGO, CA 92121

EXAMINER	
BAKER, ANNE MARIE	
ART UNIT	PAPER NUMBER
1632	14

DATE MAILED: 07/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

File

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Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment filed on 5/2/02 is considered non-compliant because it has not been submitted in the format required under **37 CFR 1.121**, as amended on September 8, 2000 (see *65 Fed. Reg. 54603*, Sept. 8, 2000, and *1238 O.G. 77*, Sept. 19, 2000).

☐ 1. The amendment does not include a clean version of the **replacement paragraph(s)/section(s)**. 37 CFR 1.121(b)(1)(ii).

☐ 2. The amendment does not include a marked-up version of the **replacement paragraph(s)/section(s)**. 37 CFR 1.121(b)(1)(iii)

☒ 3. The amendment does not include a clean version of the **amended claim(s)**. 37 CFR 1.121(c)(1)(i)

☐ 4. The amendment does not include a marked-up version of the **amended claim(s)**. 37 CFR 1.121(c)(1)(ii)

☒ 5. Other The clean version of claims 5 and 7 is missing. Attached is a copy of the page marked "Clean Version of Claims as Amended" from Applicants response of 5/2/02. Claims 5 and 7 are presented in marked-up form.

☐ **PRELIMINARY AMENDMENT:** Unless applicant re-submits the preliminary amendment in compliance with revised 37 CFR 1.121 within ONE MONTH of the mail date of this letter, examination on the merits may commence without entry of the originally proposed preliminary amendment. This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

☒ **AMENDMENT AFTER NON-FINAL ACTION:** Since the above mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

For your convenience, attached to this correspondence is a copy of an informational flyer (MPEP Bookmark Bulletin on "Simplified Amendment Practice").

~~Legal Instruments Examiner~~

Anne-Marie Baker
ANNE-MARIE BAKER
PATENT EXAMINER

CLEAN VERSION OF CLAIMS AS AMENDED

5. A method of increasing the infectivity of a cell to a viral vector by treatment of the cell with a micro-calpain inhibitor.

7. (Amended) The method of claim 6 wherein the micro-calpain inhibitor is calpain inhibitor 1.

21. The method of claim 6 wherein said adenoviral vector is replication deficient.

22. The method of claim 21 wherein said replication deficient adenoviral vector encodes a therapeutic transgene.

23. The method of claim 22 where said transgene is selected from the group consisting of cytostatic genes and pro-apoptotic genes.

24. The method of claim 23 wherein the gene is a cytostatic gene.

25. The method of claim 24 wherein the gene is the p21 gene.

26. The method of claim 23 wherein the gene is a pro-apoptotic gene.

27. The method of claim 26 wherein the gene is p53.

28. The method of claim 5 wherein the vector is replication competent.

29. The method of claim 28 wherein the replication competent vector is a conditionally replicating viral vector.

30. The method of claim 29 wherein the conditionally replicating viral vector further comprises an expression cassette which expresses a pro-apoptotic gene.

31. The method of claim 30 wherein the pro-apoptotic gene is the E3-11.6K gene.

32. The method of claim 5 wherein the method is practiced *in vitro*.

33. The method of claim 32 wherein the viral vector is a replication deficient adenoviral vector and the cell is a producer cell capable of complementing the deleted functions of the replication deficient adenoviral vector.

34. The method of claim 33 wherein the replication deficient adenoviral vector lacks a functional E1 region and the producer cell is a 293 cell.

35. The method of claim 32 wherein said *in vitro* practice of the method is in a process to purge tumor cells from a stem cell product by exposing said stem cell product to a calpain inhibitor prior to the administration of a viral vector.

36. The method of claim 35 wherein said viral vector is an adenoviral vector that encodes and expresses the p53 tumor suppressor gene.